

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

KARL FONTENOT,)		
)		
Petitioner,)	Case No.	CIV-16-69-JHP
)		
vs.)	Date:	4/9/2019
)		
JOE ALLBAUGH, Warden,)	Time:	10:07 a.m. – 12:51 p.m.
)		1:07 p.m. – 1:16 p.m.
Respondent.)		

MINUTE SHEET - MOTION HEARING

Steven P. Shreder, Judge

K. Davis, Law Clerk

K. Sidwell, Reporter

N. Davis, Deputy Clerk

FTR Courtroom 4

Counsel for Petitioner: Tiffany R. Murphy and Robert Ridenour

Counsel for Respondent: Matthew D. Haire, Kevin L. McClure, and Theodore M. Peeper

MINUTES:

Comes on for hearing on Petitioner's Motion for Sanctions (Dkt. Entry #114). Court reads parties' stipulations into the record. Petitioner's evidence. Upon the oral motion of Petitioner, and by agreement of all parties, the Court agrees to hold an in camera review of documents submitted by Assistant City Manager for City of Ada, Angie Dean, that were subpoenaed by Petitioner. Recess. Court holds in camera review of documents. Hearing resumes. Court finds the subpoenaed documents are not relevant to today's proceeding and releases them to counsel for Angie Dean, Warren Gotcher. Petitioner's evidence resumes. Petitioner rests. No evidence submitted by Respondent. Nothing further by either party.

PETITIONER'S WITNESSES:

1. Mike Miller, Ada Chief of Police
2. Frank Stout, Ada City Attorney
3. Angie Dean, Ada Asst. City Manager
4. Larry Durant, Ada Police Dept. - Property Clerk

PETITIONER'S EXHIBITS:

1. Temporary Release of Evidence – adm. w/o obj.
2. Letter from Frank Stout to Rob Ridenour dated 3/7/19 – adm. w/o obj.
3. E-mail from Frank Stout to Rob Ridenour & Tiffany Murphy dated 2/6/19 – adm. w/o obj.
4. Second e-mail from Frank Stout to Rob Ridenour & Tiffany Murphy dated 2/6/19 – adm. w/o obj.
5. Letter from Jeff Crosby to Judge Thomas Landrith dated 1/6/14 – adm. w/o obj.
6. Subpoena issued to Mike Miller – adm. w/o obj.
7. E-mail from Brett Macy to Frank Stout dated 3/26/19 – adm. w/o obj.

ENTERING ORDER:

GRANTING in part and DENYING in part Petitioner's Motion for Sanctions (Dkt. Entry #114). The motion is GRANTED to the extent it seeks an order preserving any records related to the subject matter of this proceeding in the possession of the Ada Police Department or the City Attorney. Regarding the other relief sought in the motion: (i) the Court has previously GRANTED the Petitioner leave to amend his petition herein; (ii) the Petitioner's request to be released on bond is DENIED, as the extraordinary circumstances that are required to justify such relief are not present here; and, (iii) the Petitioner's request that the laches defense asserted by the Respondent State of Oklahoma herein be waived is DENIED, as such issues go to the merits of the petition. To the extent the evidence presented today would justify any relief for the failure by the Ada Police Department to produce records responsive to the Petitioner's subpoena for approximately two years, responsibility for such failure lies primarily with the Ada Police Department (against whom the only relief sought was the order of preservation) and not with the Respondent or the Oklahoma Attorney General's office, which produced the records approximately one month after discovering them. Under the circumstances, the Court finds no further sanctions appropriate given the absence of prejudice to the Petitioner, i. e., the records eventually were produced and the Petitioner was thereupon permitted to amend his Petition. Additionally, Respondent's Motion to Dismiss Motion for Sanctions, etc. (Dkt. Entry #138) is hereby DENIED.

COURT ADJOURNED